

SENATE BILL NO. 291

INTRODUCED BY G. PERRY

(With amendments proposed by OPI 2-9-07)Formatted: Font: Arial, 11 pt,  
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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MORATORIUM ON NEW SCHOOL DISTRICTS TO ALLOW CREATION UNDER CERTAIN CIRCUMSTANCES OF A HIGH SCHOOL DISTRICT SOLELY FOR THE PURPOSE OF EXPANDING AN ELEMENTARY DISTRICT INTO A K-12 SCHOOL DISTRICT; PROVIDING FOR THE DISPOSITION OF DISTRICT BONDED INDEBTEDNESS UNDER CERTAIN CIRCUMSTANCES; ESTABLISHING PROCEDURES FOR CREATION OF A HIGH SCHOOL DISTRICT BY TRUSTEE RESOLUTION; AMENDING SECTION SECTIONS 20-6-104, 20-9-366, AND 20-9-439, and 20-9-502 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Procedure for creation of high school district solely for expansion into K-12 school district --trustee resolution.** (1) An existing elementary district may create a high school district solely for the purpose of expanding an elementary district into a K-12 district only if:

- (a) the nearest elementary school building is located at a distance of at least 40 miles from the nearest accessible high school;
- (b) the trip from the nearest elementary school building to the nearest accessible high school is 60 minutes or more over the shortest passable route;
- (c) periodically during the school year, the condition of the road makes it impractical to attend the nearest accessible high school; and
- (d) ~~the newly created K-12 district will enroll~~ at least 50 high school students RESIDE IN THE ELEMENTARY DISTRICT within 3 years after the effective date of the creation of the new district; and
- (e) the taxable valuation and boundaries of the combining elementary and high school district are the same.

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(2) The creation of a new high school district may be requested by the trustees of an existing elementary district through passage of a resolution that includes the information outlined in 20-6-105(3) and requests the county superintendent to order an election to allow the electors of the elementary district to consider the proposition to create a high school district solely for the purpose of expanding the elementary school district into a K-12 district and to approve the tax levy for payments provided in subsection (6)(b).

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(3) If the proposition for the expansion and the transition levy is approved by the electors of the elementary district and the trustees issue a certificate of election as provided in 20-20-416, the county superintendent shall order the creation of the high school district and oversee the expansion of the high

school district into a K-12 district pursuant to 20-6-701.

(4) The county superintendent shall send a copy of the order to the board of county commissioners and to the trustees of the districts affected by the creation of the district.

(5) If a new district is created, the effective date of its creation is the following July 1. The trustees of the elementary district must be designated as the trustees of the new K-12 district.

(6) Until the ~~county superintendent determines that the~~ FIRST SCHOOL FISCAL YEAR IN WHICH THE new K-12 district is ready to accept ENROLLS high school students in all grades, the existing high school district shall provide high school instruction to students RESIDING in the newly created K-12 district with the K-12 district, ~~paying the existing high school district:~~

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(a) ~~tuition and transportation charged pursuant to the provisions of 20-5-320 and 20-5-321; and~~  
(b) ~~an amount equal to THE BASE GENERAL FUND MILLS FOR THE EXISTING HIGH SCHOOL DISTRICT, ASSESSED AGAINST THE TAXABLE VALUATION IN THE K-12 DISTRICT, and funded~~  
using a building reserve fund levy for transition costs as provided in 20-9-502. The payment to the existing high school district must be deposited in the district general fund and used to reduce the BASE budget levy.

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(7) IF BONDED INDEBTEDNESS HAS BEEN APPROVED BY THE VOTERS OF THE EXISTING HIGH SCHOOL DISTRICT PRIOR TO [THE EFFECTIVE DATE OF THIS ACT] BUT THE BONDS HAVE NOT BEEN SOLD PRIOR TO THE CREATION OF THE NEW K-12 DISTRICT, THEN THE FUTURE INDEBTEDNESS OF THOSE BONDS WHEN THOSE BONDS ARE SOLD MUST BE PAID BY LEVIES ON THE ORIGINAL TERRITORY.

~~(7)(8)~~ If the K-12 school district does not open and operate a high school within 3 years after the effective date of the creation of the new district, the order of the county superintendent creating a new district under this section is void, the new district ceases to exist, and the trustees of the new district have no capacity to act. Those trustees retain authority as trustees of the elementary district.

**Section 2.** Section 20-6-104, MCA, is amended to read:

**"20-6-104. Moratorium on creation of new district --~~exeption~~ exceptions.**

(1) A-~~Except~~ as provided in subsections (2) and (3), a school district may not initiate the creation of a new elementary district or a new high school district.

(2) Pursuant to the provisions of [section 1], the trustees or the electors of an existing elementary district may initiate the creation of a new high school district solely for the purpose of expanding into a K-12 district.

~~(2)(3)~~ This section-The moratorium in subsection (1) does not apply to a district that results from the procedure for the dissolution of a K-12 school district pursuant to 20-6-704."

**SECTION 3. SECTION 20-9-366 IS AMENDED TO READ:**

**20-9-366. Definitions.** As used in 20-9-366 through 20-9-371, the following definitions apply:

(1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts.

(2) (a) "District guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an eligible district means the taxable valuation in the previous year of all property in the district EXCEPT FOR PROPERTY SUBJECT TO THE CREATION OF A NEW SCHOOL DISTRICT UNDER [NEW SECTION 11], divided by the sum of the district's current year BASE budget amount less direct state aid and the state special education allowable cost payment.

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(b) "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation in the previous year of all property in the district EXCEPT FOR PROPERTY SUBJECT TO THE CREATION OF A NEW SCHOOL DISTRICT UNDER [NEW SECTION 11], divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current year total per-ANB entitlement amount.

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(3) "Facility guaranteed mill value per ANB", for school facility entitlement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts.

(4) (a) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 175% and divided by the total sum of either the state elementary school districts' or the high school districts' current year BASE budget amounts less total direct state aid.

(b) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for school retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts.

#### **SECTION 4. SECTION 20-9-439 IS AMENDED TO READ:**

20-9-439. Computation of net levy requirement for general obligation bonds --procedure when levy inadequate. SUBJECT TO [NEW SECTION 11], THE FOLLOWING PROVISIONS APPLY: (1) The county superintendent shall compute the levy requirement for each school district's general obligation debt service fund on the basis of the following procedure:

(a) Determine the total money available in the debt service fund for the reduction of the property tax

on the district by totaling:

(i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as provided in 20-9-438;

(ii) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435;

(iii) any state advance for school facilities distributed to a qualified district under the provisions of 20-9-346, 20-9-370, and 20-9-371;

(iv) funds transferred from the impact aid fund established pursuant to 209-514 that are authorized by 20-9-437(2) to be used to repay the district's bonds; and

(v) any other money, including money from federal sources, anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from sources such as legally authorized money transfers into the debt service fund or from rental income, excluding any guaranteed tax base aid.

(b) Subtract the total amount available to reduce the property tax, determined in subsection (1)(a), from the final budget for the debt service fund as established in 20-9-438.

(2) The net debt service fund levy requirement determined in subsection (1)(b) must be reported to the county commissioners on the fourth Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue or series of bonds of a school district sufficient to raise the money necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in any amounts established under the provisions of this section, the holder of any bond of the issue or series or any taxpayer of the district may apply to the district court of the county in which the school district is located for a writ of mandate to compel the board of county commissioners of the county to make a sufficient levy for payment purposes. If, upon the hearing of the application, it appears to the satisfaction of the court that the board of county commissioners of the county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of the deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the school district that is sufficient to raise the amount of the deficiency. The levy is in addition to any levy required to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the petitioner in the proceeding must be paid by the members of the board of county commissioners and may not be a charge against the school district or the county.

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**SECTION 5.** Section 20-9-502, MCA, is amended to read:

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**"20-9-502. Purpose and authorization of building reserve fund by election -- levy for school**

**transition costs.** (1) The trustees of any district, with the approval of the qualified electors of the district, may establish a building reserve for the purpose of raising money for the future construction, equipping, or enlarging of school buildings, for the purpose of purchasing land needed for school purposes in the district, or for the purpose of funding school transition costs as provided in subsections (5) and (6). In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies:

- (a) the purpose or purposes for which the new or addition to the building reserve will be used;
- (b) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;
- (c) the total amount of money that will be raised during the duration of time specified in subsection (1)(b); and
- (d) any other requirements under 15-10-425 and 20-20-201 for the calling of an election.

(2) The total amount of building reserve, less the amount provided for in subsection (5), when added to the outstanding indebtedness of the district may not be more than the limitations provided in 20-9-406. Except as provided in subsections (5)(b) and (6), a building reserve tax authorization may not be for more than 20 years.

(3) The election must be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election must be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition must be substantially in compliance with 15-10-425.

(4) The building reserve proposition is approved if a majority of those electors voting at the election approve the establishment of or addition to the building reserve. The annual budgeting and taxation authority of the trustees for a building reserve is computed by dividing the total authorized amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve lapses when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve must be used for the purpose or purposes before any money realized by the bond issue is used.

(5) (a) The trustees may submit a proposition to the qualified electors of the district for a levy to provide funding for transition costs incurred when the trustees:

- (i) open a new school under the provisions of Title 20, chapter 6;
- (ii) close a school;
- (iii) replace a school building; or
- (iv) consolidate with or annex another district under the provisions of Title 20, chapter 6.

(b) Except as provided in subsections (5)(c) and (6), the total amount the trustees may submit to the electorate for transition costs may not exceed the number of years specified in the proposition times the

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greater of 5% of the district's maximum general fund budget for the current year or \$250 per ANB for the current year. Except as provided in subsection (6), the duration of the levy for transition costs may not exceed 6 years.

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(c) If the levy for transition costs is for consolidation or annexation:

(i) the limitation on the amount levied is calculated using the ANB and the maximum general fund budget for the districts that are being combined; and

(ii) the proposition must be submitted to the qualified electors in the combined district.

(d) The levy for transition costs may not be considered as outstanding indebtedness for the purpose of calculating the limitation in 20-9-406."

(6) The trustees of a K-12 district shall impose a levy for transition costs to fund the payment required by [SECTION 1, subsection (6)(b)] when a proposition to create the K-12 district and to assess the transition levy has been approved pursuant to [SECTION 1, subsection (2)]. The levy is limited to the amount required by [SECTION 1, subsection (6)(a)] for a period not to exceed 3 years.

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**NEW SECTION. Section 36. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 20, chapter 6, part 3, and the provisions of Title 20, chapter 6, part 3, apply to [section 1].

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**NEW SECTION. Section 467. Effective date --applicability.** [This act] is effective on passage and approval and applies to the creation of new districts on or after [the effective date of this act].

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